

§ 54.21

request may require that it be confirmed in writing. Requests for appeal service received through an official grader or an office of grading shall be transmitted promptly to the Chief for instructions.

§ 54.21 When request for appeal service may be withdrawn.

A request for appeal service may be withdrawn by the applicant at any time before the appeal service has been performed, upon payment of any expenses already incurred under the regulations by the Branch in connection therewith.

§ 54.22 Denial or withdrawal of appeal service.

A request for appeal service may be rejected or such service may be otherwise denied to or withdrawn from any person, without a hearing, in accordance with the procedure set forth in § 54.11(b), if it shall appear that the person or product involved is not eligible for appeal service under § 54.19, or that the identity of the product has been lost; or for any of the causes set forth in § 54.11(b). Appeal service may also be denied to, or withdrawn from, any person in any case under § 54.11(a), in accordance with the procedure set forth in said section.

§ 54.23 Who shall perform appeal service.

Appeal service for products shall be performed by official graders designated by the Chief or by the official in charge of an office of grading when so authorized by the Chief, and shall be conducted jointly by two official graders, or more when practicable. No official grader shall perform appeal service for any product for which he previously performed the service.

§ 54.24 Appeal certificates.

Immediately after appeal service has been performed for any products, a certificate designated as an "appeal certificate" shall be prepared, signed, and issued referring specifically to the original certificate and stating the class, grade, other quality, or compliance of the products as shown by the appeal service.

7 CFR Ch. I (1-1-03 Edition)

§ 54.25 Superseded certificates.

The appeal certificate shall supersede the original certificate which, thereupon, shall become null and void and shall not thereafter be deemed to show the class, grade, other quality, or compliance of the products described therein. However, the fees charged for the original service shall not be remitted. If the original and all copies of the superseded certificate are not delivered to the official with whom the request for appeal service is filed, the official graders issuing the appeal certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as they may deem necessary to prevent fraudulent use of the superseded certificate.

§ 54.26 Application of other regulations to appeal service.

The regulations in §§ 54.1 through 54.18 and §§ 54.27 through 54.30 shall apply to appeal service except insofar as they are manifestly inapplicable.

CHARGES FOR SERVICE

§ 54.27 Fees and other charges for service.

Fees and other charges equal as nearly as may be to the cost of the services rendered shall be assessed and collected from applicants in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the services are furnished, or as provided in § 54.6.

(a) *Fees for Service on Noncommitment Basis (Hourly Rates).* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including official grader's travel and certificate(s) preparation time in connection with the performance of service. A minimum charge of one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform service may be less than 30 minutes. The base hourly rate for noncommitment applicants shall be \$52 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays; \$57 per hour for work performed in excess of 8 hours per

Agricultural Marketing Service, USDA

§ 54.27

day for each assigned official grader and for work performed before 6 a.m. and after 6 p.m., Monday through Friday, and any time Saturday or Sunday, except on Federal legal holidays; and \$90 per hour for all work performed on Federal legal holidays.

(b) *Fees for Service on Commitment Basis.* Minimum fees for service performed under a commitment agreement or an agreement by memorandum shall be on the basis of 8 hours per day, Monday through Friday, excluding Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed. The base hourly rate for service performed under such agreements shall be \$45 per hour for 8 consecutive hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on Federal legal holidays; \$57 per hour for work performed in excess of 8 hours per day for each assigned official grader and for work performed before 6 a.m. and after 6 p.m., Monday through Friday, and any time Saturday or Sunday, except on Federal legal holidays; and \$90 per hour for all work performed on Federal legal holidays. The Agency reserves the right under such a commitment agreement or agreement by memorandum to use any grader assigned to the plant on a commitment basis to perform service for other applicants, as provided in § 54.6(c), crediting the commitment applicant with the number of hours charged to the other applicant, provided the allowable credit hours plus hours actually worked for the applicants do not exceed 8 hours on any day, Monday through Friday, excluding legal holidays.

(c) *Travel charges.* When service is requested at a place so distant from an official grader's headquarters, or place of prior assignment on a circuitous routing that a total of one-half hour or more is required for the grader to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous routing, the charge for such service shall include a mileage charge administratively determined by the Chief, and travel tolls, if applicable, for such travel prorated against all the applicants furnished the

service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(d) *Per diem charges.* When service is requested at a place away from the official grader's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the grader receives per diem reimbursement. The per diem rate will be administratively determined by the Chief. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(e) *Fees for appeal service.* Fees for appeal service shall be determined on the basis of the time, of two official graders, required to render the service, calculated to the nearest fifteen-minute period, including the time required for the preparation of certificates and travel of such graders in connection with the performance of the service, at the applicable hourly rate prescribed in paragraph (a) of this section, plus any travel charges and per diem for such graders ordinarily chargeable under paragraphs (c) and (d) of this section: *Provided*, That when on appeal it is found that there was error in the original determination equal to or exceeding ten percent of the total number of similar units of the products involved, no charge will be made for the appeal service unless a special agreement therefor was made with the applicant in advance.

(f) *Fees for extra copies of certificates.* In addition to copies of certificates furnished under § 54.14, any financially interested person may obtain not to exceed three copies of any such certificate within one year from its date of issuance upon payment of a fee of \$1.00, and not to exceed three copies of any such certificate at any time thereafter, while a copy of such certificate is on file in the Department, upon payment of a fee of \$5.00.

§ 54.28

(g) *Other charges.* When costs, other than costs specified in paragraphs (a), (b), (c), (d), (e), and (f) of this section, are involved in providing the services, the applicant will be charged for these costs. The amount of these charges will be determined administratively by the Chief. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

[42 FR 53921, Oct. 4, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 44704, Oct. 12, 1982; 51 FR 21135, June 11, 1986; 54 FR 21401, May 18, 1989; 55 FR 20443, May 17, 1990; 57 FR 11427, Apr. 3, 1992; 58 FR 48592, Sept. 17, 1993; 58 FR 64670, Dec. 9, 1993; 59 FR 1890, Jan. 13, 1994; 59 FR 13643, Mar. 23, 1994; 63 FR 32966, June 17, 1998; 65 FR 34042, May 26, 2000]

§ 54.28 Payment of fees and other charges.

Fees and other charges for service shall be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service the applicant shall remit by check, draft, or money order, made payable to the Agricultural Marketing Service, USDA, payment for the service in accordance with directions on the billing, and such fees and charges shall be paid in advance if required by the official grader or other authorized official.

MISCELLANEOUS

§ 54.29 Identification.

All official graders and supervisors of grading shall have their Agricultural Marketing Service identification cards in their possession at all times while they are performing any function under the regulations and shall identify themselves by such cards upon request.

§ 54.30 Errors in service.

When an official grader, supervisor of grading, or other responsible employee of the Branch has evidence of misgrading, or of incorrect certification or other incorrect determination or identification as to the class, grade, other quality, or compliance of a product, he shall report the matter to

7 CFR Ch. I (1–1–03 Edition)

his immediate supervisor. The supervisor of grading will investigate the matter and, if he deems advisable, will report it to the owner or his agent. The supervisor of grading shall take appropriate action to correct errors found in the determination or identification of class, grade or other quality or compliance of products if the products are still owned by the person who owned them when, and are still located at the establishment where, the incorrect service was rendered and if such service was rendered by a grader under the jurisdiction of such supervisor, and the supervisor of grading shall take adequate measures to prevent the recurrence of such errors.

§ 54.31 Uniforms.

All meat graders and their supervisory personnel are required to wear clean, white, well-maintained outer frocks while performing any function under these regulations involving contact with or the handling of any meat or meat product.

[45 FR 19214, Mar. 25, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

Subpart B [Reserved]

Subpart C—Regulations Governing the Certification of Sanitary Design and Fabrication of Equipment Used in the Slaughter, Processing, and Packaging of Livestock and Poultry Products

SOURCE: 66 FR 1198, Jan. 5, 2001, unless otherwise noted.

§ 54.1001 Meaning of words.

For the purposes of the regulations in this subpart, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand.

§ 54.1002 Terms defined.

Act. The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

Administrator. The Administrator of the Agricultural Marketing Service (AMS), United States Department of